

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

THERESA L. SCHREIB,

Plaintiff,

v.

**AMERICAN FAMILY MUTUAL
INSURANCE COMPANY, a foreign
automobile insurance company,**

Defendant.

No.

NOTICE OF REMOVAL

(Clerk's Action Required)

TO: The Clerk of the Superior Court;

AND TO: Theresa L. Schreib;

AND TO: Christopher M. Davis, Plaintiff's Attorney.

NOTICE IS HEREBY GIVEN that Defendant American Family Mutual Insurance Company (hereinafter "American Family") hereby removes to this Court the state court action described below, pursuant to 28 USC §1332, 28 USC §1441 and 28 USC §1446. In support thereof, Defendant American Family states as follows:

FILING AND SERVICE

1. On December 16, 2013, Plaintiff Theresa L. Schrieb filed a civil action with the King County Superior Court. A true and correct copy of the Complaint is attached hereto as **Exhibit A**. A true and correct copy of the summons is attached hereto as **Exhibit B**.

2. On January 7, 2014, a copy of the Summons and Complaint was served on the Insurance Commissioner of the State of Washington, as statutory agent for Defendant American Family. A true and correct copy of the Insurance Commissioner's Certificate of Service is attached hereto as **Exhibit C**.

PARTIES

3. In the Complaint, Plaintiff Theresa L. Schrieb admits that she is a resident of the State of Washington.

4. Defendant American Family is a foreign insurance company incorporated in the State of Wisconsin. Defendant American Family is licensed to conduct insurance business in the State of Washington.

AMOUNT IN CONTROVERSY

5. In the Complaint, Plaintiff alleges that she is entitled to insurance coverage under a policy of insurance issued by American Family.

6. Plaintiff alleges that she is entitled to contractual benefits under the subject policy. See, **Ex. A**, pg. 11, ¶ 3.2. Plaintiff also alleges bad faith claims against American Family including but not limited to claims that American Family unreasonably denied claims for insurance coverage and benefits including but not limited to medical specials incurred by Plaintiff in excess of \$90,000.00, and past lost income in excess of \$200,000.00. See, **Ex. A**, pg. 5, ¶2.20. See, **Ex. A**, pg. 7, ¶ 2.28. Plaintiff further alleges multiple IFCA violations

1 including but not limited to claims that Plaintiff was compelled to submit to arbitration and that
2 American Family failed to promptly settle in light of the Arbitrator's award of \$1,186,988.00.
3 See, Ex. A, pg.14, ¶ 4.9. Based on UIM policy limits of \$500,000.00, Plaintiff is asserting
4 damages in excess of \$686,988.00. Plaintiff has asserted claims for breach of contract, breach
5 of duty of good faith, violation of RCW 19.86 (the Consumer Protection Act), and violation of
6 RCW 48.30 (the Insurance Fair Conduct Act).

7 6. Plaintiff alleges she is entitled to a monetary judgment for damages including
8 but not limited to:

- 9 a. Damages of \$686,988.00, or more (i.e., the excess arbitration
10 award over the \$500,000.00, UIM policy limits);
- 11 b. Attorney fees;
- 12 c. Extra-contractual remedies including but not limited to attorney fees,
13 costs and treble damages.

14 7. Given the above, the amount in controversy, exclusive of interest and costs,
15 exceeds \$75,000.00, pursuant to 28 U.S.C. §1446(c)(2).

16 JURISDICTION

17 8. For purposes of determining jurisdiction under 28 U.S.C. §1332, Plaintiff is a
18 citizen of the State of Washington. Defendant American Family is a citizen of the State of
19 Wisconsin. As such, there is complete diversity of citizenship between Plaintiffs and
20 Defendant.

21 9. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs,
22 pursuant to 28 U.S.C. §1446(c)(2).

10. This Court, therefore, has jurisdiction pursuant to 28 U.S.C. §1332 and removal is proper pursuant to 28 U.S.C. §1441 and 28 U.S.C. §1446(c)(2).

TIMELINESS

11. The Summons and Complaint was filed in the King County Superior Court on December 16, 2013. Defendant American Family was served with the Summons and Complaint on January 7, 2014. The date of filing this Notice of Removal is within thirty (30) days from the date this matter first became removable.

COPIES OF PROCESS, ORDERS AND PLEADINGS IN STATE COURT PROCEEDINGS

12. In accordance with 28 U.S.C. § 1446, Defendant American Family attaches to this Notice, as **Exhibits A through F**, true and correct copies of the Complaint, orders, additional records and proceedings in the King County Superior Court of Washington. These documents are as follows:

- A. Complaint;
- B. Summons;
- C. Insurance Commissioner's Certificate of Service;
- D. Case Information Cover Sheet;
- E. Order Setting Case Schedule;
- F. American Family's Notice of Appearance.

13. Notice of this removal will be filed with the Clerk of the King County Superior Court and notice will be given to all other parties in accordance with 28 U.S.C. §1446(d). A copy of that Notice is attached as **Exhibit G**.

1 **WHEREFORE**, Defendant American Family respectfully requests that the above-
2 entitled cause, currently pending in the Superior Court of the State of Washington for King
3 County, be removed to the United States District Court for the Western District of Washington,
4 and that this cause proceed in the United States District Court as an action properly so
5 removed.

6 DATED this 3rd day of February, 2014.

7
8 **COLE | WATHEN | LEID | HALL, P.C.**

9 /s/Rory W. Leid
Rory W. Leid, III, WSBA #25075

10 /s/Kimberly Larsen Rider
Kimberly Larsen Rider, WSBA #42736

11 Attorneys for Defendant American Family Mut. Ins. Co.
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CERTIFICATE OF SERVICE

The undersigned makes the following declaration certified to be true under penalty of perjury pursuant to RCW 9A.72.085:

On the date given below, I caused to be sent out for service a true and correct copy of the foregoing on the following parties in the manner indicated:

Christopher M. Davis	<input type="checkbox"/> Via Fed Ex
Davis Law Group	<input type="checkbox"/> Via ABC Legal Messenger
2101 Fourth Avenue, STE 1030	<input type="checkbox"/> Via Email
Seattle, WA 98101	<input checked="" type="checkbox"/> Via Fax
	<input checked="" type="checkbox"/> By Depositing Into U.S. Mail 1 st Class
	Postage Pre-Paid
	<input checked="" type="checkbox"/> Via ECF/Electronic Court Filing

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct

Executed this 3rd day of February, 2014, at Seattle, Washington.

s/Kathleen M. Forgette
Kathleen M. Forgette, Legal Assistant